MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 3 2015/2016

UCS2612 CONSUMER LAW

(All Sections/ Groups)

1 JUNE 2016

Reading Time: 09.00am – 09.15am
(15 Minutes)
Answering Time: 09.15am – 12.15pm
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 5 Questions only.

3. Attempt question 1 in Part A which is **compulsory** and any **THREE** out of the **FOUR** questions in Part B. The distribution of the marks for each question is given.

4. Students are not allowed to bring in any statutes into the Examination Hall.

5. Please write all your answers in the Answer Booklet provided.

Part A (COMPULSORY) (40 MARKS)

QUESTION 1

James Ivan ordered a Lamborghini Aventador from Special Importers Sdn Bhd. He was promised that the car would be delivered to him in three months. The price of the car was quoted at RM 1.6 million. He paid a 25 % down payment in accordance with the agreement and the balance upon delivery. Failure to pay the balance would result in the forfeiture of the down payment.

After 3 months James Ivan was informed of the delay in the delivery because the manufacturers in Italy had no stock. Five months later the company rang James informing him of the arrival of the car and ready for collection. Upon arrival at the show room he was informed that this was a new version of the Lamborghini Aventador as the old version was discontinued. The new version now cost an additional RM 100, 000. James Ivan was in a predicament since he did not want to lose his down payment. Further he was aware of the fact that the old version was discontinued. Despite his protest he was politely told of the terms of the agreement. The agreement was silent on the upgrades and the price revision.

He reluctantly paid the balance and took the car home. Six months later, the car developed a fault in the oil pump that was situated inside the engine of the car. He took the car to the dealers to rectify the problem. The car was sent to the workshop and upon examination by the mechanics he was told that this was a unique problem and that they needed special tools to unfold the engine. The special tools had to be ordered from the manufacturers.

After two months, the tools arrived and upon further examination, he was informed that the engine oil pump needed to be changed and this has to be ordered again from the manufacturers who do not have it in stock and therefore he had to wait for confirmation on the availability of the stock. He was told that this was an unique situation since the car was a special model.

James Ivan was absolutely furious and seeks your advice. He would like a complete refund of the money paid because of the following reasons. Firstly the purchase price was increased without prior consent. Secondly the store should have sufficient expertise and tools to repair his car and that it was the onus of the importers to have the spare parts.

Advice James Ivan on the Guarantees in Supply of Goods to Consumers according to the Consumer Protection Act (CPA) 1999 including the rights and remedies in relation to Guarantees.

(40 marks)

Continued...

PART B (Answer Any Three Out of Four Questions)

QUESTION 2

Taming Enterprise sold AKEN badminton rackets, which was labelled as made in England. The enterprise also advertised the product on large banner outside the shop and prominently displayed the make of the racket.

On investigation by a rival company it was found that AKEN badminton rackets was indeed an English Brand but the model sold in Malaysia was made in China. The enforcement officers of the authority of the department of consumer affairs charged them with misleading representation.

The representatives of Taming Enterprise argued that it is British Company make and that any buyer would know that many of the European and American companies are located in China and therefore there is no issue of misrepresentation.

Discuss with reference to the Consumer Protection Act of Malaysia (CPA) 1999 and related cases.

(Total: 20 Marks)

QUESTION 3

On 1 May 2016 Johnson was admitted to the Melaka General Hospital. He was diagnosed for a rare blood disorder, which had no known cure. HEXT, a pharmaceutical company had developed a drug which was still at the experimental stage, to treat the disease.

Dr. Kannan of the Melaka General hospital decided to treat his patient Johnson with the drug. Johnson was made to sign a document for consent to the treatment, which among the terms was an exclusion clause, disclaiming any liability by the hospital. This was a standard operating procedure of the hospital. The Doctor assures the patient that the risk is very minimal.

On 10 May 2016, Johnson suffers a relapse and went into a coma. It was later established that the cause of the coma was attributed to the drug, which had a serious side effect on the patient. The pharmaceutical company decides to withdraw the drugs to conduct further test in order to make it safe.

Advice the aggrieved family of Johnson on the course of action, explaining the relevant laws with regard to defective product. Also advise them of the possible defence that they may encounter.

(Total: 20 Marks)

Continued...

QUESTION 4

The 2010 Amendments on Unfair Contract Term, was incorporated into the Consumer Protection Act of Malaysia (CPA) 1999. Part IIIA of the CPA identifies two kinds of unfairness under the unfair contract term

Distinguish between procedural and substantive unfairness giving a brief description of each of the term.

(Total: 20 Marks)

QUESTION 5

a) In an action against a trader under the Consumer protection Act (CPA) 1999, explain the procedures of filing and registration in a consumer tribunal. (8 marks)

After a decision by the tribunal, an award must be made within sixty days from the first day of the commencement of the hearing.

Under Section 112(2) of the CPA 1999, list down the awards that are provided for. (12 marks)

(Total 20 Marks)

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